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| APPLICATION NO.           | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO.  |
|---------------------------|-------------|----------------------|---------------------|-------------------|
| 10/790,199                | 03/02/2004  | Yoshihisa Tashiro    | 402991              | 1023              |
| 23548                     | 7590        | 05/03/2006           |                     | EXAMINER          |
| LEYDIG VOIT & MAYER, LTD  |             |                      |                     | REAMES, MATTHEW L |
| 700 THIRTEENTH ST. NW     |             |                      |                     |                   |
| SUITE 300                 |             |                      | ART UNIT            | PAPER NUMBER      |
| WASHINGTON, DC 20005-3960 |             |                      |                     | 2891              |

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| <b>Office Action Summary</b> | Application No.               | Applicant(s)     |
|------------------------------|-------------------------------|------------------|
|                              | 10/790,199                    | TASHIRO ET AL.   |
|                              | Examiner<br>Matthew L. Reames | Art Unit<br>2891 |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 14 March 2006.

2a)  This action is FINAL.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 7-9 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 7 is/are rejected.

7)  Claim(s) 8 and 9 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 02 March 2004 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date. \_\_\_\_ .  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_ .

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

1. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nagai (admitted prior art US-5797).

a. As to claim 7, Nagai teaches a semiconductor laser device fabricating method including: forming a first cladding layer of a first conductivity type (fig. 3 item2), an active layer having a quantum well structure (fig. 3 item 3), and a first second cladding layer of a second conductivity type successively on a semiconductor substrate of the first conductivity type (fig. 3 item 4); forming on

the first second cladding layer a mask pattern for impurity implantation having an opening in a region where a resonator facet of a semiconductor laser device is to be formed (column 5 lines 55-60); disordering the active layer near the resonator facet by introducing impurities using the mask pattern as a mask (see e.g. column 5 lines 55-60); forming a second a second cladding layer of the second conductivity type on said first second cladding layer after removing the mask pattern (fig. 3 item 10); forming on said second second cladding layer a stripe-shaped mask pattern opposed to the disordered active layer across the first and, the second second cladding layers (column 5 lines 60-65), the stripe-shaped mask pattern extending in a resonator lengthwise direction; and forming an optical waveguide including the second second cladding layer with the stripe-shaped mask pattern used as a mask( column 5 lines 60-65 and column 10 lines 15-20).

Nagai does not teach explicitly teach applying pump light to the disordered region to generate photoluminescence.

However it would have been obvious to one of ordinary skill in the art to optically pump performing a photoluminescence spectroscopy on the active region in order to check stresses and cracks in the material, (see for example Marchand US 20020020341 paragraph 11). Moreover due to the window region the light would inherently be blue shifted as the scanning takes place.

***Allowable Subject Matter***

2. Claim 8 and 9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
  - a. The following is a statement of reasons for the indication of allowable subject matter: O'brien (US 6,396,864) discloses that COD is related to thermal event. Mori (US 5,728,623) teaches measuring photoluminescence shift corresponds to the thermal stress of the object. Yoshida (US 5,617,957) teaches injection current (pump current) is related to the COD or the power of the COD. Further, the photons being ejected represent a power output since the energy of a given photon is given by Plank's constant times the frequency of the given photon. But the prior art does not teach  $\lambda \text{ bl} \geq 20 \text{ nm}$  or the equivalent power output. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Response to Arguments***

1. Applicant's arguments with respect to claim 7 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

1. Examiner notes the act of prediction recited in claim 7 does not in itself represent a physical step. Therefore, the prediction step is given no patentable weight.

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2. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew L. Reames whose telephone number is (571)272-2408. The examiner can normally be reached on M-Th 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William B. Baumeister can be reached on (571)272-1722. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MLR

  
David J. Jarneke  
Primary Examiner  
5/1/08